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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/653,039	09/01/2000	David J. Pawson	50277-1533	6577

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EXAMINER
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OSMAN, RAMY M

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 04/06/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application**

09/653,039

**Applicant(s)**

PAWSON, DAVID J.

**Examiner**

Ramy M Osman

**Art Unit**

2157

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,3,8-11,18 and 19 rejected under 35 U.S.C. 103(a) as being unpatentable over Downing et al. (U.S. Patent No. 6,373,855) in view of Jones (U.S. Patent No. 6,175,822) in further view of Ramasubramanian et al. (U.S. Patent No. 6,172,672).

3. In reference to claims 1,2,10 and 11, Downing teaches a method for delivering digital video from a server to a client, comprising the steps of:

transmitting one or more digital streams to said client, said one or more digital streams comprising at least a portion of video and audio information, wherein transmitting said one or more digital streams consumes bandwidth between said server and said client (Abstract and column 3 line 35 – column 4 line 67, Downing teaches sending audio/video from server to client over a network consuming bandwidth, where video bandwidth is based upon the quality of audio);

Downing teaches allocating extra bandwidth to video based upon audio bandwidth (column 4). Downing fails to explicitly teach wherein a signal is received indicating that audio information is not to be sent to said client, and in response to said signal, said server ceasing transmission of said audio information to said client and using bandwidth that would otherwise

Art Unit: 2157

have been used to send said audio information to said client to send other information to said client, and using at least some of the bandwidth to send other information includes sending video information that has a higher quality than the video information sent prior to receiving said signal. However, Ramasubramanian, teaches a client sending a message to a server indicating a higher quality video image be sent to client (Abstract, column 4 line 50 – column 5 line 20 and column 6 line 24 – column 7 line 25). Jones teaches network based audio transmission wherein a receiving end can instruct a transmitting end to stop audio transmission (Jones; column 5 line 50 – column 6 line 10).

It would have been obvious for one of ordinary skill in the art to modify Downing to allow for the client to indicate higher quality video be sent from the server as per the teachings of Ramasubramanian and that this indication instruct that audio not be sent as per the teachings of Jones so that the bandwidth can then be allocated to video thus allowing for higher quality video transmission to the client.

4. In reference to claim 3, Downing teaches a method of claim 2, wherein said step sending video information that has a higher quality than the video information sent prior to receiving said signal includes sending video frames at an increased frequency to said client (column 1 lines 10-50 and column 4 lines 23-67, Downing discloses increasing bits per second carrying video information).

5. In reference to claims 8 and 9, Downing teaches a method of claim 1, wherein audio and video information are transmitted to said client in a single digital stream and in different digital stream (column 3 line 1 – column 4 line 40, Downing discloses transmitting audio and video information in a single channel, with an audio bandwidth and video bandwidth).

Art Unit: 2157

6. In reference to claims 18 and 19, Downing teaches a method of claim 11, wherein said step of sending desired information that has a higher quality than the desired information sent prior to receiving said signal includes sending enhanced audio information, and where the audio information is recorded at a higher sampling rate (column 5, Downing discloses enhanced audio signal, and where it is a higher audio sampling rate).

7. Claims 4-6 rejected under 35 U.S.C. 103(a) as being unpatentable over Downing et al. (U.S. Patent No. 6,373,855) in view of Jones (U.S. Patent No. 6,175,822) in further view of Ramasubramanian et al. (U.S. Patent No. 6,172,672) in further view of Wine et al. (U.S. Patent No. 6,477,201).

Downing in view of Jones in further view of Ramasubramanian (Downing) teach the method of claim 2. They fail to explicitly teach wherein the step of sending video information that has a higher quality than the video information sent prior to receiving said signal includes sending video information that has increased color depth, increased pixel density and/or improved quantization than the video information sent prior to receiving said signal. However, Wine teaches selective video enhancement by improving parameters like color depth, resolution and quantization levels (Summary and column 4 line 35 – column 5 line 67).

It would have been obvious for one of ordinary skill in the art to modify Downing to improve the video quality by improving parameters like color depth, resolution and quantization levels as per the teachings of Wine so as to provide selective enhanced video properties to users.

Art Unit: 2157

8. Claim 7 rejected under 35 U.S.C. 103(a) as being unpatentable over Downing et al. (U.S. Patent No. 6,373,855) in view of Forler (U.S. Patent No. 5,327,176).

Downing teaches the method of claim 1. Downing fails to explicitly teach wherein step of using at least some bandwidth to send other information includes sending closed- captioned information to said client. However, Forler teaches sending closed caption information when audio information is designated not to be sent (i.e. muted) (column 1 line 10 – column 2 line 15).

It would have been obvious for one of ordinary skill in the art to modify Downing to sending closed caption information when audio information is designated not to be sent as per the teachings of Forler so that spoken information can be viewed textually when there is no audio.

9. Claims 12-17 and 21-52 do not teach any new limitations above claims 1-11, 18 and 19 and are therefore rejected for the above mentioned reasons.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramy M Osman whose telephone number is (703) 305-8050. The examiner can normally be reached on Monday through Friday 9AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703) 305-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2157

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RMO

March 8, 2004



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